

Application No. 10/758,767  
Amendment Dated March 31, 2008  
Reply to Office Action of January 2, 2008

**REMARKS**

In the Office Action dated January 2, 2008, claims 1-40 were examined with the result that claims 1, 3, 4, 7-9, 12-15, 20-26, 29-32 and 35-38 were rejected, and claims 2, 5, 6, 10, 11, 16-19, 27, 28, 33, 34, 39 and 40 were withdrawn from further consideration by the Examiner as being directed toward a non-elected invention. In response, applicant has amended claim 1, and canceled claims 2, 5, 6, 10, 11, 16-19, 27, 28, 33, 34, 39 and 40. In view of the above amendments and following remarks, reconsideration of this application is requested.

Before turning to the rejections of record, applicant would like to point out to the Examiner that an amendment to the specification has been made via the present Amendment. More specifically, the Examiner should note that the cholesterol structure shown at the top of page 24 of the specification as filed was incorrectly drawn. It is obvious to one skilled in the art that the side chain should be attached to carbon 17 of the 5 membered D ring instead of carbon 16 as illustrated. In support thereof, applicant submits a copy of pages 341 and 342 from the Merck Index (1989) which clearly illustrates that the side chain should be attached to carbon 17 and not carbon 16 of the D ring. This is an obvious error, and accordingly applicant has corrected the error herein. Approval of the correction by the Examiner is herein requested by applicant.

With regard to claim 1, the Examiner will note that the present Amendment rewrites claim 1 to eliminate the secondary alcohols from the definition of the retinoid ester therein. Thus, claim 1 now defines the retinoid ester as only containing tertiary alcohols.

In the Office Action, the Examiner first rejects claims 1, 3, 4, 7-9 and 12-15 on the ground of obviousness-type double patenting in view of claim 18 of U.S. Patent 7,126,017. The Examiner indicates that a Terminal Disclaimer may be used to overcome this double patenting rejection. Accordingly, applicant herein submits a Terminal Disclaimer to obviate the double patenting rejection. As a result, applicant herein requests the Examiner withdraw the double patenting rejection.

In the Office Action, the Examiner objects to claims 9, 26 and 32 as being dependent upon a rejected claim. However, the Examiner should first note that claim 9 is not a dependent claim. Claim 9 is an independent claim and therefore does not depend on any rejected claim.

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With respect to claim 26 and 32, these claims are dependent upon claims 20 and 29, respectively, which in turn are dependent upon claim 1. However, the Examiner should note that the non-elected invention, i.e. the secondary alcohols, have been canceled from claim 1. Thus, as noted above, the only remaining functional groups defined in claim 1 are tertiary alcohols. Accordingly, applicant believes all of the remaining claims are now patentable as the non-elected invention has been canceled from claim 1. Thus, applicant believes claims 1, 3, 4, 7, 8, 9, 12-15, 20-26, 29-32, and 35-38 are all now allowable.

Finally, the Examiner indicates that claims 1, 3, 4, 7-8, 12-15, 20-25, 29-31 and 35-38 were objected to as containing subject matter covering a non-elected invention. The Examiner indicated that the non-elected invention should be canceled from these claims. As noted above, applicant has canceled the non-elected invention via the present Amendment, and thus believes all of the remaining claims are now allowable.

An effort has been made to place this application in condition for allowance and such action is earnestly requested.

Respectfully submitted,

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